

**DEFENDANT  
EXHIBIT  
D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**DAVID HILL,**

**Plaintiff**

**vs.**

**HARLEY LAPPIN, et al.,**

**Defendants**

**CIVIL ACTION NO. 3:CV-11-1609**

**DECLARATION OF J. HEPNER**

1. I am currently employed by the Federal Bureau of Prisons (hereafter "BOP"), and assigned to the Northeast Regional Office (Philadelphia, PA) as a Correctional Services Specialist. I was a Lieutenant at the United States Penitentiary, Lewisburg ("USP Lewisburg") during times relevant to the Complaint. I was assigned to USP Lewisburg from December 7, 2008 through April 7, 2012. As a part of my duties and responsibilities, I have access to inmates' records, electronic data maintained on the BOP's SENTRY computer system, Administrative Remedy data, and BOP Program Statements. I certify that the Attachments referenced herein are true and accurate to the best of my knowledge.

2. On June 22, 2010, at approximately 8:00 am, I ordered Hill (Register No. 12585-007) to submit to hand restraints to be escorted to a different cell with another inmate. Hill refused to submit to restraints and stated "I aint' movin, and if you put me in with that dude we're gonna fight." Hill was threatening violence against another inmate and against staff. I believed it was appropriate, necessary, and in accordance with BOP policy to place him in ambulatory restraints in order to prevent him from carrying out his threat of violence.

3. I contacted the Warden who authorized the assembly of a use of force team to place Hill into ambulatory restraints due to his disruptive behavior and displaying signs of imminent violence. I contacted health services and was advised there were no medical concerns which would preclude him from being administered chemical agents, if necessary.

4. I wrote Hill an incident report for refusing and order and threatening.

5. The memorandum and incident report attached hereto pertaining to the morning of June 22, 2010, misconduct were prepared by me before the end of my shift on June 22, 2010.

6. Hill appeared to calm down in the afternoon on June 22, 2010. He was moved to a shower area where the ambulatory restraints were removed. I attempted to place Hill into hand restraints to escort him to another cell where another inmate was already housed. Hill refused to be placed in hand restraints and threatened to assault another inmate or staff. Hill stated "I'm going to fuck that Muslim up if you put me in there". He also stated "you people keep fucking with me, I'm gonna have to go to war with y'all". Hill was threatening violence against another inmate and against staff. I believed it was appropriate, necessary, and in accordance with BOP policy to place him in ambulatory restraints in order to prevent him from carrying out his threat of violence. I notified the Warden who authorized a Use of Force Team to place Hill in four point restraints. The decision to bypass ambulatory restraints was made due to Hill's agitated state and recent attempts to manipulate his being in ambulatory restraints.

7. Inmates in the SMU Program are generally housed in double cells with other inmates. One of the goals of the SMU Program is for inmates to learn how to live together peaceably. Additionally, it is the BOP's practice to house inmates in cells together in order to diminish the risk of suicide.

8. Further, the BOP does not have the resources to provide single cells to every inmate in the SMU at USP Lewisburg.

9. Staff are obligated to take reasonable measures to protect inmates and other staff from harm. I believed Hill's threats of violence against staff and inmates were imminent, regardless of whether his demeanor was calm or agitated at the time. The decision to bypass ambulatory restraints was made due to Hill's agitated state and recent attempts to manipulate his being in ambulatory restraints. Under those circumstances, it was my belief at the time that it was necessary and appropriate to place Hill in four point restraints.

10. The memorandum and incident report attached hereto pertaining to the afternoon of June 22, 2010, misconduct were prepared by me before the end of my shift on June 22, 2010.

11. Records reflect I checked Hill's restraints on four occasions between June 22, 2010 and June 24, 2010.

June 22, 2010, 11am entry: My notes reflect the inmate stated "fuck you" and had not regained control.

12:00 pm entry: reflect I asked the Plaintiff if he would be calm if removed from restraints and place in a cell with another inmate to which the Plaintiff responded "Fuck no".

June 23, 2010, 10:00 am entry: My notes indicate Plaintiff continued to be agitated and aggressive. Plaintiff was banging the restraints against the bed. Notes indicate Plaintiff refused use of toilet, food and water.

2:00 pm (1400 hours) entry: My notes indicate Plaintiff continued to threat violence and refused the offer of using the toilet and water

**See Two Hour Lieutenant checks for June 22-24, 2010**

12. The goal of the two hour reviews by a lieutenant is to determine whether the inmate has regained and demonstrated a pattern of non-disruptive behavior over a period of time indicating the inmate has regained self-control.

13. When an inmate is in restraints for more than eight hours the Warden (or designee) or the administrative duty officer will notify the regional director or regional duty office by telephone.

When an inmate is placed in four point restraints, documentation detailing the reasons for the placement in four point restraints is provided to the Regional Director or Regional Duty Officer the following work day. See PS 5566.06, Use of force and Application of Restraints

14. The notification described above (as set forth in the program statement) is simply that, a notification.


15. Throughout the time Hill was in restraints, 15 minute Restraint checks were performed by correctional officers. The purpose of the restraint checks is to assess the overall welfare of the inmate. If an inmate appears to be in distress the officer will contact a lieutenant and/or medical staff. Regional Notifications were made in accordance with policy. See PS 5566.06, Use of force and Application of Restraints; 15 minute restraint check records; Regional Notification records

I declare under penalty of perjury pursuant to 28, United States Code, Section 1746, that the foregoing is true and correct to the best of my knowledge, information, and belief.

The documents attached to this declaration:

a. are true and correct copies of records maintained by the Bureau of Prisons; b. were created at or near the time of the occurrence of the matters reflected therein by someone with knowledge; or c. were made by the Bureau of Prisons as a regular practice. I am either custodian of the documents or am otherwise qualified to execute this certification, pursuant to Fed. R. Evid. 803(6) and 902(11).

Executed this 8<sup>th</sup> day of October, 2015

  
J. Hepner  
Correctional Services Specialist  
Northeast Regional Office

BP-S718.055 Two-Hour Lieutenant Restraints Check Form (24-Hours) CDFRM  
DEC 05

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name: <u>Hill, David</u>	Reg. No.: <u>12585007</u>	Inst.: <u>LEW</u>
24-Hour Period Beginning: <u>6-22-10</u> <u>9:10 AM</u> Ending: _____ Date Time Date Time		
<p>Instructions:</p> <ul style="list-style-type: none"> <li>* Enter beginning and ending dates/times at top of form for each 24-hour period.</li> <li>* A Lieutenant must check the general welfare of the inmate every two (2) hours.</li> <li>* Use a separate form for every 24-hour period the inmate remains in restraints.</li> <li>* Describe inmate's behavior, including verbal and non-verbal comments. Use additional paper if needed. Do not simply write conclusions.</li> <li>* If needed, notify health / psychology services or supervisors for assistance.</li> </ul>		

Lieutenant Name: <u>J. Hepler</u> (Typed Name and Signature)	Date: <u>6/22/10</u>	Time: <u>11:00 AM</u>
Desired Calming Effect? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Toilet Used? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Describe Inmate's Behavior: <u>Inmate asked if he would be calm if removed from restraints. Inmate stated "fuck you" Has not regained self control.</u>		
Action Taken: <u>Continue Restraints</u>		

Lieutenant Name: <u>J. Hepler</u> (Typed Name and Signature)	Date: <u>6/22/10</u>	Time: <u>12:00 pm</u>
Desired Calming Effect? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Toilet Used? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Describe Inmate's Behavior: <u>Inmate stated "fuck no" when asked if he would be calm if removed from restraints and placed in cell with another inmate.</u>		
Action Taken: <u>Continue Restraints</u>		

Lieutenant Name: _____ (Typed Name and Signature)	Date: _____	Time: _____
Desired Calming Effect? Yes <input type="checkbox"/> No <input type="checkbox"/>	Toilet Used? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Describe Inmate's Behavior: _____		
Action Taken: _____		



BP-8718.055 Two-Hour Lieutenant Restraints Check Form (24-Hours) CDFRM  
DEC 05

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name: <u>Hill, David</u>	Reg. No.: <u>12585-007</u>	Inst.: <u>USP Lewisburg</u>
24-Hour Period Beginning: <u>6/22/10</u> Date	<u>2:45 PM</u> Time	Ending: _____ Date Time
<b>Instructions:</b> * Enter beginning and ending dates/times at top of form for each 24-hour period. * A Lieutenant must check the general welfare of the inmate every two (2) hours. * Use a separate form for every 24-hour period the inmate remains in restraints.		* Describe inmate's behavior, including verbal and non-verbal comments. Use additional paper if needed. Do not simply write conclusions. * If needed, notify health / psychology services or supervisors for assistance.

Lieutenant Name: <u>P. Carrasquillo</u> (Typed Name and Signature)	Date: <u>6/22/10</u>	Time: <u>4:00 PM</u>
Desired Calming Effect? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Toilet Used? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Describe Inmate's Behavior: <u>PH still acting aggressive. Stated "I can be here forever and won't change."</u>		
Action Taken: <u>Continue in Restraints</u>		

Lieutenant Name: <u>Carrasquillo</u> (Typed Name and Signature)	Date: <u>6/22/10</u>	Time: <u>6:00 PM</u>
Desired Calming Effect? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Toilet Used? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Describe Inmate's Behavior: <u>PH stated, "Fuck this shit." "I can do this all night. Water given. Fed him lunch."</u>		
Action Taken: <u>Continue in Restraints</u>		

Lieutenant Name: <u>R. Johnson</u> (Typed Name and Signature)	Date: <u>6/22/10</u>	Time: <u>8:00 PM</u>
Desired Calming Effect? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Toilet Used? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Describe Inmate's Behavior: <u>I'm restraints checked, paramedic checked I'm, I'm refused water. I'm attitude poor at this time.</u>		
Action Taken: <u>Remain in restraints</u>		

Lieutenant Name: Parrasgulla [Signature] Date: 6/22/10 Time: 1000 AM  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: IM feeling agitated and attitude poor. Stated, "Go fuck yourself!" "This is bullshit." "He then asked for water. I gave him 3 ounces of water."

Action Taken: Continue of Restraints.

Lieutenant Name: E. Stuart Date: 6/23/10 Time: 1200  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☒ No ☐

Describe Inmate's Behavior: Inmate refused to speak used Urinal. Can not determine behavior.

Action Taken: Continue in restraints.

Lieutenant Name: E. Stuart [Signature] Date: 6/23/10 Time: 200 A  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate given water restraints adjusted. Would not speak other than complaining about restraints. Given 8 oz of water.

Action Taken: Continue in restraints.

Lieutenant Name: E. Stuart [Signature] Date: 6/23/10 Time: 400 A  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☒ No ☐

Describe Inmate's Behavior: Inmate refused to answer question given Urinal to use. Can not determine behavior.

Action Taken: Continue in restraints.

Lieutenant Name: EShant (Typed Name and Signature) Date: 6/23/10 Time: 600A

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Restraints checked PA checked would not speak can not determine if under control

Action Taken: Continue in restraints

Lieutenant Name: M Saylor (Typed Name and Signature) Date: 6/23/10 Time: 800 Am

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Restraints checked PA checked I'm would not answer any questions, no response no way to determine if I'm is under control

Action Taken: Continue Restraints

Lieutenant Name: J. Heer (Typed Name and Signature) Date: 6/23/10 Time: 1000

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate remains agitated and verbally aggressive. Attempted to converse with inmate, I'm stated "Fuck you motherfucker". Banging restraints against bed. Not calm. Refused use of toilet, food, and water.

Action Taken: Continue Restraints

Lieutenant Name: M Saylor (Typed Name and Signature) Date: 6/23/10 Time: 1200

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: I'm remains non-compliant refuses to answer questions, continues to struggle against restraints when checks are performed

Action Taken: Continue Restraints



Lieutenant Name: J. Hone Date: 6/23/10 Time: 1400  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate continues to threaten violence towards any inmate he is placed in a cell with. Refused use of toilet and water when offered.

Action Taken: Continue Restraints.

Lieutenant Name: P. Carrasquillo Date: 6/23/10 Time: 4:00 PM  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: I/M very aggressive and upset. Stated, "Fuck you Lt. You worse than the white man." Offered water, he refused.

Action Taken: Continue in Restraints

Lieutenant Name: M. Edmon/M. Edmon Date: 6/23/10 Time: 4:00 PM  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate stated, "Lieutenant take me the fuck out of these cuffs or someone is going to get hurt."

Action Taken: Remain in Restraints

Lieutenant Name: P. Carrasquillo Date: 6/23/10 Time: 8:00 PM  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: I/M upset and is agitated. Attempted to feed but was too aggressive. Water offered. I believe not to take restraints off due to staff safety and his comments.

Action Taken: Continue in Restraints

(This form may be replicated via WP)

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Lieutenant Name: Parrasquillo [Signature] Date: 6/23/10 Time: 10:00 PM  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: IM was offered meal one more time, stated, "Fuck you!" offered water, he accepted. IM still very upset and displays aggressive behavior towards staff.

Action Taken: Continue in restraints.

Lieutenant Name: D. Font [Signature] Date: 6/24/10 Time: 12:00  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate highly stating "fucker & fuck on" you don't have, you ain't no lieutenant.

Action Taken: Remain in restraints

Lieutenant Name: D. Font [Signature] Date: 6/24/10 Time: 2:00  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☒ No ☐

Describe Inmate's Behavior: Inmate still very aggressive stated "Get a real fucking lieutenant in here, you ain't shit"

Action Taken: [Signature]

Lieutenant Name: D. Font [Signature] Date: 6/24/10 Time: 4:00  
 (Typed Name and Signature)

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate still aggressive and again saying "Get a real fucking lieutenant in here, you ain't shit"

Action Taken: Remain in restraints

Lieutenant Name: S. Fusi (Typed Name and Signature) Date: 6/24/10 Time: 08

Desired Calming Effect? Yes ☐ No ☒ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate said "I'm tired of seeing you so just go I'll be out of here"

Action Taken: Remain in restraints

Lieutenant Name: Childress (Typed Name and Signature) Date: 6-24-10 Time: 0830

Desired Calming Effect? Yes ☒ No ☐ Toilet Used? Yes ☐ No ☒

Describe Inmate's Behavior: Inmate displaying calming effect

Action Taken: Remove 4-point and place in ambulatory restraints

Lieutenant Name: Childress (Typed Name and Signature) Date: 6-24-10 Time: 1000

Desired Calming Effect? Yes ☒ No ☐ Toilet Used? Yes ☒ No ☐

Describe Inmate's Behavior: Inmate displays calming effect,

Action Taken: Removal from ambulatory restraints

Lieutenant Name: \_\_\_\_\_ (Typed Name and Signature) Date: \_\_\_\_\_ Time: \_\_\_\_\_

Desired Calming Effect? Yes ☐ No ☐ Toilet Used? Yes ☐ No ☐

Describe Inmate's Behavior: \_\_\_\_\_

Action Taken: \_\_\_\_\_

(This form may be replicated via WP)